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Influenza, and the laws of England conce

# INFLUENZA,

AND

## THE LAWS OF ENGLAND

CONCERNING

### INFECTIOUS DISEASES.

A Paper read before the Society of Medical Officers of Health,  
January 18, 1892,

By RICHARD SISLEY, M.D. Lond., M.R.C.P. Lond.

TO WHICH IS APPENDED

COUNSEL'S OPINION ON THE POWERS OF SANITARY  
AUTHORITIES AS TO INFLUENZA,

AND THE

PROCLAMATION ISSUED AT DOVER BY THE  
BOROUGH AUTHORITIES.

LONDON:

LONGMANS, GREEN, AND CO.

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L 1000  
E 556  
1892

TO MY FRIEND

JOHN RICHMOND,

as a public recognition of the help, counsel, and  
encouragement I have received from him ;

AND TO

MAJOR KIRKBY ROBINSON, Esquire, M.D.,  
Medical Officer of Health for East Kent,

to whose wisdom and courage we owe the first effort  
that has been made to check the spread of influenza  
in England, this pamphlet is dedicated.





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*N.B.—Some curious errors which existed in the Paper when it was read, and which at the time strangely escaped notice, have now been corrected.*

## P R E F A C E.

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*“The public health is the foundation on which reposes the happiness of the people, and the power of a country. The care of the public health is the first duty of a statesman.”*

A few words in explanation of the scope of this paper are necessary. It treats only of influenza, and of the law of England as it is, or rather as it is supposed to be, for what the law actually is can only be decided by the Courts of Law. Until a point is decided, the exact meaning of certain words remains a matter of opinion. On some of the points which might arise, I have asked and have obtained the legal opinion of Sir Frederick Pollock, which by his permission I publish. The paper treats only of laws at present in force, that is to say, of those laws which at the present time confer powers to Sanitary Authorities. It is incidentally noticed that the Public Health (London) Act, 1891, may lead to a conflict between Metropolitan Sanitary Authorities, but this does not concern the main question. I have not dealt with Regulations,\* which under the

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### \* PREVENTION OF EPIDEMIC DISEASES.

Section 134. Whenever any part of England appears to be threatened with or is affected by any formidable epidemic, endemic, or infectious disease, the Local Government Board may make and from

Public Health Act, 1875, the Local Government Board under special circumstances have the power to make—the question of use of this power must be decided by the President of the Local Government Board, who has at his command the advice of a specially selected medical staff, whose series of Reports are the most valuable works on Public Health extant. I am conveying no reflection on the gentleman, who by political exigencies happens to fill the office of President of the Local Government Board, when I say that it is absolutely impossible for any man, however able, any politician, however eminent, to continue long to preside over such a department without occasion arising which calls for technical knowledge on his part.

11, York Street,  
Portman Square.  
January 24th, 1892.

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time to time alter and revoke regulations for all or any of the following purposes ; (namely)—

- (1.) For the speedy interment of the dead ; and
- (2.) For house-to-house visitation ; and
- (3.) For the provision of medical aid and accommodation, for the promotion of cleansing, ventilation, and disinfection, and for guarding against the spread of disease ;

and may by order declare all or any of the regulations so made to be in force within the whole or any part or parts of the district of any local authority, and to apply to any vessels, whether on inland waters or on arms or parts of the sea within the jurisdiction of the Lord High Admiral of the United Kingdom or the commissioners for executing the office of the Lord High Admiral for the time being, for the period in such order mentioned ; and may by any subsequent order abridge or extend such period.

## Influenza, and the Laws of England Concerning Infectious Diseases.

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Mr. PRESIDENT and GENTLEMEN,

THE question which I ask you to consider to-night is whether anything can be done to check the spread of influenza, and whether any of the laws affecting Public Health can be of use in helping to secure this object. Owing to the present state of ignorance which exists amongst the people of this country with regard to disease, it is advisable that Sanitary Authorities should not use any powers they possess without a fair chance of their being successful in accomplishing the end in view. The old idea that an Englishman's house is his castle still exists, and is strongly held by the masses of the people, and all interference with what is considered personal liberty is strongly resented. Should inconvenience and expense be caused to the public without obvious and corresponding advantage, the people will begin to resent all sanitary interference, and in the present state of sanitary law and of Sanitary Authorities this would undoubtedly lead to much strife amongst those various representatives of the people who are now selected to form those Authorities. And so the progress of sanitation would be checked, for under the present

system no arrangement made by popularly elected bodies can be efficiently carried out without the tacit consent of those who elect the members of those bodies. Whether this state of things is satisfactory I will not here pause to consider. It is enough to allude to it as a factor which cannot be ignored.

The preliminary questions which naturally arise are:—

- (1.) Is an epidemic of influenza of sufficient national importance to make it worthy of attention?
- (2.) Do we know enough about the mode in which influenza is spread to justify us in saying that it is infectious?

It is impossible to give in accurate numbers the sum of those disabled and of those killed by an epidemic of influenza, or more than roughly to estimate the money loss to the country of such an epidemic as that of 1889-90. The charts\* show the increase of mortality in London during the epidemic of 1803 and of 1889-90, and the bills of mortality of the cities of Petersburg, Berlin, Vienna, Paris, and New York, during the epidemics of 1889-90. These charts do not show the number of deaths which were due to influenza, but they do show the increase of death-rate which accompanies epidemics of the disease. "It is found that during an epidemic many people who already suffer from organic diseases which would ultimately prove fatal, die sooner than they otherwise would because they are not strong enough to overcome the depressing effects of influenza in addition to those of pre-existing

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\* See pages 28-31.

“ disease. It is common for diseases of the respiratory  
 “ organs to follow an attack of influenza, and the  
 “ maladies thus set up may not end fatally for weeks,  
 “ months, or even for years.”\*

The Report of the Registrar-General which has been recently published shows that the number of deaths directly ascribed to influenza in England and Wales in 1890 was only 4,523, but the Registrar-General points out that this by no means truly represents the number of deaths which it really caused. He says, “ If  
 “ we assume--as we may, though not with certainty,  
 “ yet with much probability—that the increased mor-  
 “ tality from pneumonia, bronchitis, and diseases of the  
 “ organs of circulation, as compared with the nine  
 “ preceding years of the decennium were due to the  
 “ same cause as were the deaths directly ascribed to  
 “ influenza, the total number of deaths due directly or  
 “ indirectly to the epidemic influenza was not merely  
 “ 4,523, but 27,074, or 91 per million living.” On this computation the increase in the death-rate due to influenza was .941, or nearly 1 per 1,000 inhabitants. But only a small proportion of cases of influenza end fatally, and the amount of suffering endured by patients who live through the disease cannot be represented numerically. Nor should the money loss of such a visitation be entirely ignored. But I think it will be admitted that an epidemic of influenza is a serious national disaster, and that, therefore, if we know how the disease is spread, it is of importance that this knowledge should be put to some practical use.

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\* A Paper read before the International Congress of Hygiene and Demography, August 1892 :—On the Prevention of the Spread of Epidemic Influenza.



How is influenza spread? Gray and Haygarth, amongst our older physicians, taught that it was spread by contagion. Hirsch, who is possibly not well acquainted with English medical literature, tried to prove the contrary. M. Tessier, in 1889, spoke of influenza passing “like a cloud which obeys the caprice of the night, traverses at the same time and in the course of a few days the distance between towns situated at the four corners of the earth.” In England we have had few specimens of such imaginative writing (though there have been some), but the mode of spread of influenza has been carefully studied,\* and it is proved beyond doubt that—

- (1.) The first case of influenza in a town is often a patient who has come from an infected place.
- (2.) Isolated cases of influenza precede an epidemic.†
- (3.) Influenza spreads along the lines of human intercourse.
- (4.) Isolated persons such as prisoners and inmates of asylums and convents often escape influenza.
- (5.) The numbers of those affected in an epidemic increase till a maximum is reached and then decline, as in the case of contagious diseases.‡

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\* See especially Report of the Influenza Epidemic of 1889-90, by Dr. Parsons, with an introduction by the Medical Officer of the Local Government Board.—Eyre and Spottiswoode, London, 1891.

† On the spread of influenza by contagion. A paper read before the Epidemiological Society.

‡ Epidemic influenza.—Longmans, 1891.

No one can read Dr. Parsons' report of the influenza epidemic of 1889-90 without becoming convinced of the truth of Dr. Buchanan's statement that "probably no evidence has ever been put on record in such abundance as that accumulated by Dr. Parsons' report to show that in its epidemic form influenza is an eminently infectious complaint communicable in the ordinary personal relations of individuals one with another. It appears to me," he adds, "that there can henceforth be no doubt about the fact."

Mr. President:—Up to the present point, I feel sure that there will be a general agreement concerning the facts I have mentioned. In influenza we have to deal with a contagious and with a very destructive disease. It is usual now-a-days to describe contagious diseases as preventable, and many years ago Haygarth wrote, "So far as it can be proved that a disease is produced by contagion, human forethought can prevent the mischief."\* Concerning "preventable diseases" the Prince of Wales at the late International Congress of Hygiene asked, "If preventable, why not prevented?"

Apart from any application of legal enactments, individuals, families, and small communities, may do much to avoid infection. To Dr. E. L. Trudeau,† of Adirondack Sanatorium, belongs the credit of trying what could be done in the way of quarantine. "Fearing an attack of the prevalent influenza might be disastrous to many of the invalids at the Adirondack Cottage Sanatorium, the place was quarantined as soon as the epidemic appeared in the neighbourhood."

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\* "I could further explain how certain catarrhs, particularly the influenza, are produced by contagion, and might be prevented." A letter to Dr. Perceval on the Prevention of Infectious Fevers. By John Haygarth, Bath, 1801, p. 84.

† Medical News, Philadelphia, p. 28, xiii, p. 11.

The inmates of the Sanatorium did not suffer, although many people in the country around and visitors of the hotels and boarding-houses were affected. Professor Baümler quotes a case, showing how at an inn in the Black Forest those who were purposely kept away from the sick escaped influenza. Mr. Townsend Barker, of Churchingford, isolated the first cases he saw at the end of 1889 and the disease did not spread at that time beyond the members of the family first affected and himself.

I have elsewhere shown how free the inmates of jails were from infection in the epidemic of 1889, and that in seven out of a total of twenty the prisoners entirely escaped infection, though influenza was raging in the towns in which the jails were situated. Dr. Savage has called attention to the fact that confined lunatics are less liable to the disease than their keepers who are allowed to expose themselves to contagion, and he ascribes this immunity to the circumstance that they are less exposed to contagion, and not to any peculiarity in the insane diathesis.

Enough has been said to prove that apart from any rigid enforcement of sanitary legal enactments, much good may be expected to arise from a knowledge by the public that the question whether they get influenza or not must largely depend on themselves, that is to say, on whether they expose themselves to contagion or not.

At the outbreak of influenza in 1889 few people took any precautions against infection, and those suffering from the disease freely mixed with others going to parties, receiving visitors, and attending places of public

resort. These practices are, perhaps, less prevalent to-day.

Is it not the duty of all Sanitary Authorities to give some general advice on the subject of contagion? I am glad to see that the Dover Sanitary Authorities have recognised that it is their privilege and duty to do so. A placard, destined to become historical, and of which I am fortunate enough to be able to show you a copy, contains this warning: "The Mayor, Aldermen, and "Burgesses hereby give Notice warning the Public "of the Dangerous and Infectious character of Influenza, "and that the disease is often spread by careless "exposure of infected persons." People in less enlightened towns are taught by the newspapers, and there is an unfortunate tendency to trust more to "cures" than to prevention. We still live in the Drug Age.

During the epidemic of 1889-90 no steps were taken to stop the spread of the disease, many doctors and writers, both in the medical and lay journals, taught that contagion played no part in the matter. In May last a conviction that this erroneous tendency did much harm led me to recommend that by a short Act of Parliament influenza should be placed amongst the diseases for which notification is compulsory. I am still of opinion that had this been done much sickness and many deaths would have been avoided. The good would have been done chiefly in an indirect manner. A discussion on such a Bill in Parliament would have concentrated public attention on the subject, the evidence of the Local Government Board would have received immediate and wide-spread recognition, and in this way people would have been taught that influenza was

chiefly, if not entirely, spread by contagion and the might have acted on their knowledge of that fact.

The notification of influenza and the isolation of the first cases would probably have prevented an epidemic in those places in which the Notification Act was adopted, and even a recognition of the fact that influenza was a disease of sufficient importance to be worthy of such precautions might have helped the effective working of the Public Health Act of 1875 in places in which the Notification Act was not adopted.

The question which now concerns us, however, is not what might have been done last summer, but what can be done now by Sanitary Authorities with the laws at present in force, and whilst we are in the presence of an epidemic.

The laws relating to infectious disease are by no means simple, and their working powers have still to be put to the test. Did one law apply to the whole country the matter would be comparatively simple. But the laws are diverse and the methods by which they are worked complex.

In many parts of the country the only sanitary laws in force which bear directly on the prevention of infectious diseases are the Public Health Act of 1875 and the Epidemic and other Diseases Prevention Act, 1883.\*

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\* The Epidemic and other Diseases Prevention Act, 1883, 46 & 47 Vict. c. 59. This Act gives Sanitary Authorities power to borrow money to be spent in cases of epidemic, endemic and infectious diseases, when such outlay is ordered by the Local Government Board. The money is spent for (1) interments, (2) house visitation, (3) medicine, and (4) disinfection, &c. "and for guarding against the spread of disease."



Under the former, section 126, "Any person who (1) " whilst suffering from any dangerous infectious disorder " wilfully exposes himself without any proper precautions against spreading the disorder in any street, " public place, shop, inn, or public conveyance, or enters " any public conveyance without previously notifying " to the owner, conductor, or driver that he is so " suffering . . . . shall be liable to a penalty " not exceeding 5*l*." There is another provision which might apply to sending letters.

It is by no means certain that a conviction under this section could be upheld against a person suffering from influenza. It is probable that it would be pleaded that influenza is not a "*dangerous infectious disorder*" within the meaning of the Act. The word dangerous might afford a legal loophole for escape.

That the possibility of such a plea has been considered appears certain from the wording of the Public Health (London) Act, 1891. In this Act some "*dangerous infectious diseases*" are compulsorily notified, other infectious diseases may be, under certain conditions, added to the list, and then, "every such infectious disease" is in this Act referred to as a "*dangerous infectious disease*." It seems therefore that a conviction of an influenza patient under the Act of 1875 might give rise to a very interesting and important legal decision.\*

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\* In 1815 it was held that "there could be no doubt, in point of law, that if a person unlawfully, injuriously, and with full knowledge " of the fact exposes in a public highway a person affected with a contagious disorder, it is a common nuisance and indictable as such." . . . . Judgment of Le Blanc, J., in *Rex v. Vantandillo*, 4 M. and S. 73; *Rex v. Burnett*, 4 M. and S. 272, is to the same effect.

"These were convictions for exposing on the King's highway persons infected with small-pox; but it is equally an offence indictable

Should it be decided that influenza is a "dangerous infectious disease," Sanitary Authorities will be obliged to act on that decision, but if it is not a "dangerous infectious disease" within the meaning of the Act, the Public Health Act, 1875, will be of no avail. If, however, it be held that the Act does apply to influenza, it is worthy of note that Rural Authorities will be in a better position to deal with influenza than the Sanitary Authorities of London are at the present time.

The Infectious Diseases (Notification) Act, 1889, is an "adoptive" Act. Where it is in force the notification to the Sanitary Authority of the incidence of some infectious diseases is compulsory. These diseases are small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names: typhus, typhoid, enteric, relapsing, continued, or puerperal. Power is given to the Local Authority to place any other infectious disease under the working of the Act. The means by which a disease is placed in the list is this: the Local Authority must be summoned to pass a resolution to this effect. In the ordinary course 14 days' notice is necessary, but in an emergency three

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at common law to expose in public persons labouring under any other infectious disease, whereby the health of the public may be endangered. A person was indicted for bringing a horse diseased with glanders into a public place to the danger of the Queen's subjects. *Reg. v. Henson*. Dears. CC. 24."

"The Law of Public Health," by William Cunningham Glen, Barrister-at-law, and Alex. Glen, M.A., LL.B., Barrister-at-law. Tenth edition, p. 203. London, 1888. In *Reg. v. Henson*, the defendant was convicted and the conviction upheld.

clear days' notice is sufficient. In the latter case, should the Sanitary Authorities adopt a resolution to add the disease to those for which notification is compulsory, the Authority must send a copy of the resolution to the Local Government Board for approval, and "give public notice thereof by advertisement in a local newspaper and by handbills, and otherwise in such a manner as the Local Authority think sufficient for giving information to all persons interested." Such a resolution has no force until the expiration of one week from the date of the advertisement, "but unless approved by the Local Government Board shall cease to be in force at the expiration of one month after it is passed, or any earlier date fixed by the Local Government Board."

It is evident from this that influenza cannot immediately be added to the list of infectious diseases for which notification is necessary. What is the least time in which this can be done? Let us suppose that some member of a Sanitary Authority should decide to-night that the notification of influenza is desirable. If things work as he wishes, and as rapidly as the law allows, how soon will notification be compulsory?

Let us take an instance:—

January 20.—Notice given to every member of the Local Authority that the resolution will be proposed.

„	21.	} Three clear days' notice.
„	22.	
„	23.	
„	24.—Sunday.	



January 25.—Monday. Meeting of Authority.  
Decision of Authority to adopt  
the resolution.

Advertisement in local paper  
same evening (possible, not pro-  
bable). Notice to Local Govern-  
ment Board.

- „ 26.—Tuesday.
- „ 27.—Wednesday.
- „ 28.—Thursday.
- „ 29.—Friday.
- „ 30.—Saturday.
- „ 31.—Sunday.

February 1.—Monday. Resolution in force (13th  
day). 12th day the first possible.

Thus the least time in which such a resolution can  
come in force is 12 days.

Now should a Sanitary Authority wait till influenza  
is prevalent in their district, and then at length decide  
“something must be done,” and pass such a resolution  
to adopt the Act, it will come into force too late to be  
of much service, yet the expense to the Authority would  
not be small.

No Sanitary Authority should undertake such  
work *during the height of an epidemic*. If the Act be  
adopted before the existence of an epidemic the matter  
is a different one, and what is required is that the  
whereabouts of the *first* cases should be known, and  
that these patients should not be allowed to spread the  
disease.

The Infectious Disease (Prevention) Act, 1890, like the Notification Act is adoptive, but for its adoption more time is required. Under Section 3 it is provided that 14 days' notice are required to be given to all members of the Sanitary Authority before a resolution for the adoption of the Act can be proposed. Should the Act be adopted, the fact must be advertised, and the law only comes into force one month after the appearance of the advertisement. Notice of the resolution must also be sent to the Local Government Board. Six weeks, therefore, is the least time in which the Act can be brought into force in places which have not already adopted it.

The sections of the Act which might be made to apply to influenza are Sections 5-18, and one or all of these may be adopted.

Section 6 makes provision for the disinfection of bedding.

Section 7 refers to the disinfection of houses.

Sections 8, 9, 10, 11, to dead bodies.

Section 12 provides for the compulsory detention of persons suffering from infectious diseases.

Section 13 relates to infectious rubbish.

Section 14 provides that when Sections 7 to 13 are in force, notice of their provisions shall be given to the occupier of any house in which it is known there is any one suffering from an infectious disease.

Section 15 provides for the temporary accommodation, at the expense of the Local Authority, of people who are compelled to leave their houses during the time they are disinfected.

Section 16 provides for the execution of penalties on those who obstruct the working of the Act.

Section 17 gives power of entry of the Local Authority for purposes of disinfection.

The provisions of this Act *alone* would be of little use in checking the spread of influenza. Doubtless bedding and houses should be disinfected. But if influenza is not considered a "dangerous infectious disease" under the Public Health Act of 1875, what will the disinfection of houses avail? Patients suffering from influenza will in that case be allowed to freely spread the disease by going into public places, and will then have their houses disinfected at the public expense.

It is pretty evident that the sanitary law affecting rural and urban districts will not certainly be able to afford much help in preventing the spread of influenza.

The Public Health Act of 1875 and the Notification and Prevention of Infectious Diseases Acts do not apply to the metropolis. London is governed by the Public Health (London) Act, 1891, which came into force on January 1st last. It is the latest and most complete triumph of sanitary law, and the London ratepayer will, doubtless, hopefully expect much from it. May he not be disappointed!

In rural districts, as we have seen, it is possible that influenza may be recognised as a "dangerous infectious disease," and then the Sanitary Authorities may and ought to fine patients who expose themselves whilst suffering from it. No such provision giving such power exists in the London Act. At the present time anyone may without let or hindrance, whilst suffering from influenza, go to any public place, drive

in any public conveyance, and spread a disease which, as we have seen, was in the year 1890 responsible for the death of over 27,000 people.

Now, Mr. President, this does not seem to be an ideal hygienic arrangement.

It is worthy of note that there is at present a difficulty in sending to a hospital a patient who has influenza. I have to thank Professor Wynter Blyth for telling me the difficulties he himself experienced.

The St. John's Ambulance Society declined to carry the patients because influenza is infectious.

The Metropolitan Asylum Board declined to allow their ambulance to be used because influenza was not in their list of "dangerous infectious diseases."

Three cabmen declined to take the patients in spite of the fact that Professor Wynter Blyth offered to disinfect, and possibly because he insisted on the necessity for the disinfection of their cabs after the journey.

Foreigners justly congratulate us on our sanitary arrangements, but the state of things just mentioned is hardly worthy of the capital of a nation which takes the lead in hygienic measures.

The "dangerous infectious diseases" for which notification is compulsory in London are the same as those named in the Notification Act, and have been already enumerated.

But it is within the power of any London vestry to add to this list.

The conditions under which this can be done are similar to those for putting the Notification Act in

force. Under section 56, sub-section 5, it is provided that in an emergency a meeting of a Sanitary Authority may be called at three clear days' notice. A resolution making influenza an infectious disease under the working of the Act may then be passed, and this regulation will come into force one week later. The least time, therefore, at which the Act could possibly be made available is 12 days. It is not probable that any medical officer would advise, or any vestry adopt such a course. It is still more improbable that all London vestries would adopt this course. If they do not adopt a uniform course of "masterly inactivity" influenza may be in the eyes of the law a "dangerous infectious disease" in one street and not in the next. The vestries, therefore, are likely to leave matters to the County Council, which, under section 56, sub-section 6, has the same power in London of adding any infectious disease to the list.

Should the County Council exercise this power the impending strife between the County Council and the vestries will begin in earnest.

Some reference must be made to the remote effects of placing influenza under the same provisions as the diseases which are at present under the Act. Under sections 60-61 much expense would probably be caused by carrying out disinfection, and under sub-section 4, in providing accommodation and necessary attendants for those who had to leave their dwellings in order that they might be disinfected. Under section 69 it seems that no tradesman having influenza could "engage in any" "occupation connected with food, or carry on trade or" "business in such a manner as to be likely to spread the" "infectious disease."



From these facts it is evident that the height of an epidemic is not the time to insist on the compulsory notification of influenza. Should this now be done the Public Health London Act of 1891 would throw on the Sanitary Authorities duties which they could not possibly carry out, and on the people a burden greater than they could bear.

But if the people of Dover who have influenza can be kept indoors by a monitory notice, so much the better! And if the section of the Act of 1875 does refer to influenza, Sanitary Authorities under that Act may be able to effect much by putting its provisions into force.

The Act does not apply to London, and it cannot be considered satisfactory that Sanitary Authorities have no hold whatever on those who recklessly spread disease and death.

The tendency of modern legislation has been to give a certain amount of "local option" to Sanitary Authorities in dealing with infectious diseases. Now, if we assume that members of vestries and county councillors are always led to their decisions by considerations of the public interest, we are also compelled to admit that they are not always skilled in sanitary matters, and unless and until this is the case it is to be feared that the results of their deliberations will not always be ideal ones.

Questions affecting the Public Health are of the greatest national importance and should be decided by those who have some training in, and knowledge of, the subject. And the application of this truth is general. Inspiration teaches and experience proves that figs are

not produced by thistles ; nor is it to be expected that good sanitary laws can come from professional politicians when it is remembered that " Politics is the madness of many for the gain of a few."

Mr. President, it must be evident that the present laws are not perfectly adapted to the circumstances in which we now find ourselves placed, nor is much improvement in this respect to be hoped for until the sanitary service is consolidated and becomes one fold under one shepherd—a Minister of Public Health.



THE NOTICE ISSUED BY THE DOVER  
SANITARY AUTHORITIES.

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The following is a copy of the placard posted in the  
Borough of Dover :—

BOROUGH OF DOVER.

INFLUENZA.

The Mayor, Aldermen, and Burgesses, hereby give  
Notice warning the Public of the Dangerous and  
Infectious character of Influenza, and that the disease  
is often spread by careless exposure of infected persons.

The Public Health Act provides that “ Any person  
“ who while suffering from any dangerous infectious  
“ disorder, wilfully exposes himself without proper  
“ precautions against spreading the disorder in any  
“ Street, public place, Shop, Inn, or public conveyance,  
“ is liable to a penalty not exceeding 5*l*.”

By Order,

E. WOLLASTON KNOCKER,  
Town Clerk.

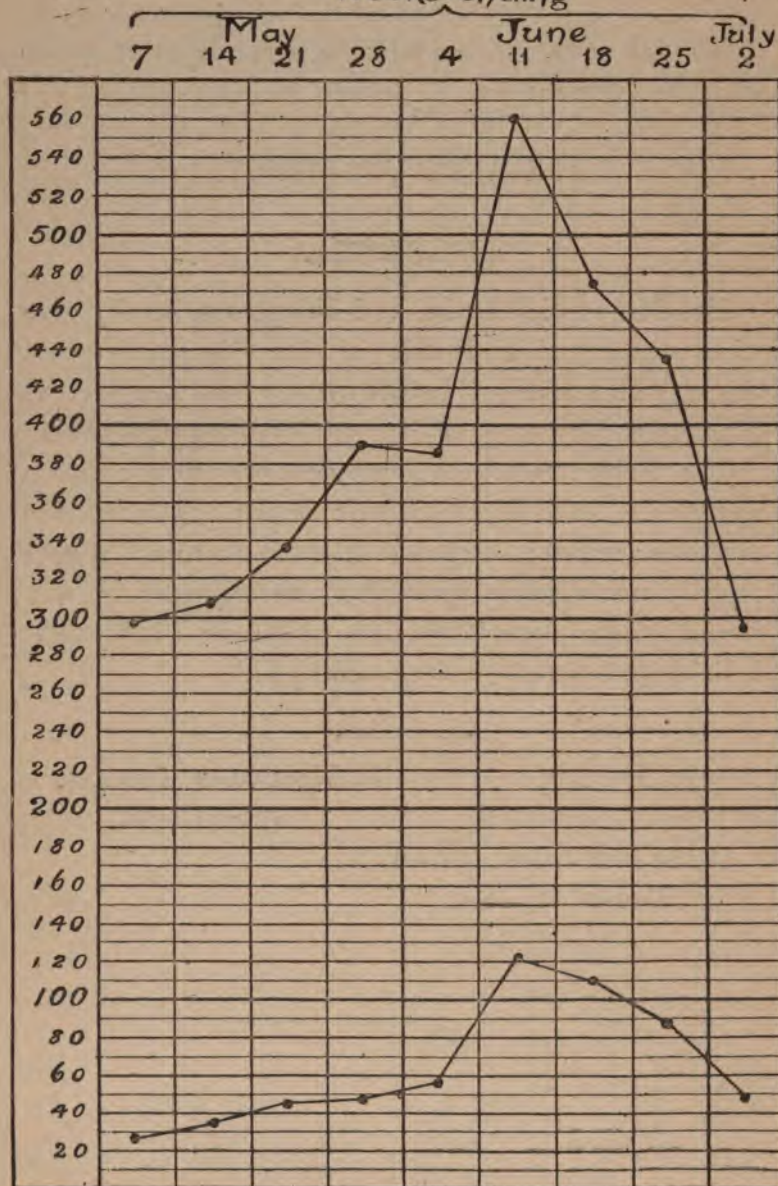
Castle Hill House, Dover,  
December, 1891.

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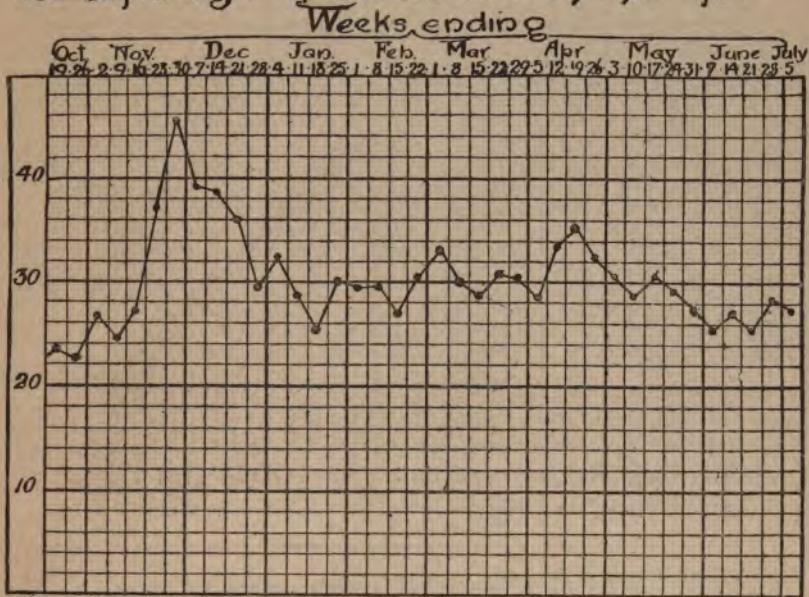
## CHART I.

Chart shewing Bill of Mortality and Number of Deaths recorded under the general name of Fever in London in the year 1782 for Weeks ending

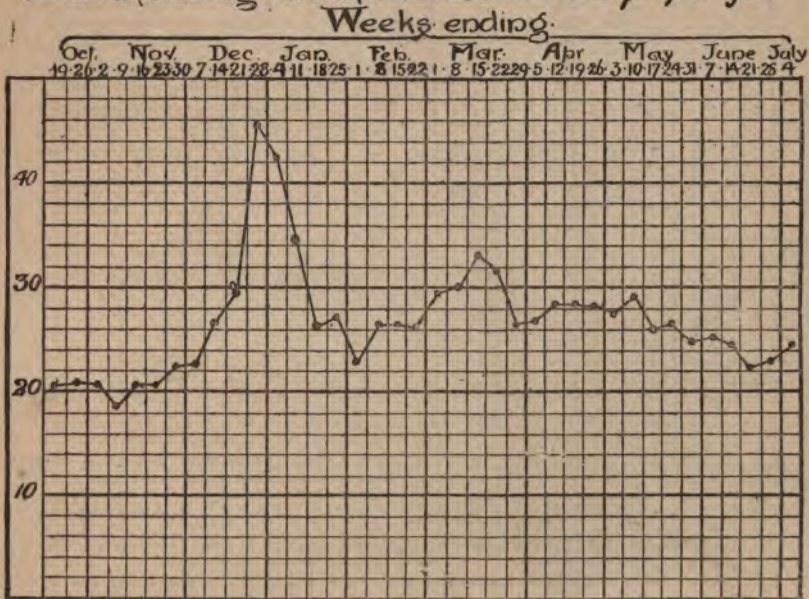


## CHARTS II. AND III.

Chart. shewing the Death Rate per annum per 1000 living in St. Petersburg during the Influenza epidemic in 1889-90 for.



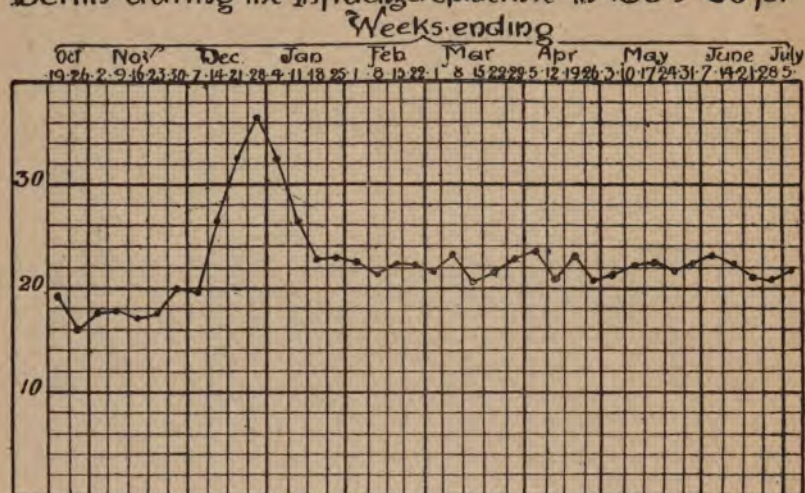
Deathrate per annum per 1000 living in Vienna during the epidemic in 1889-90 for.



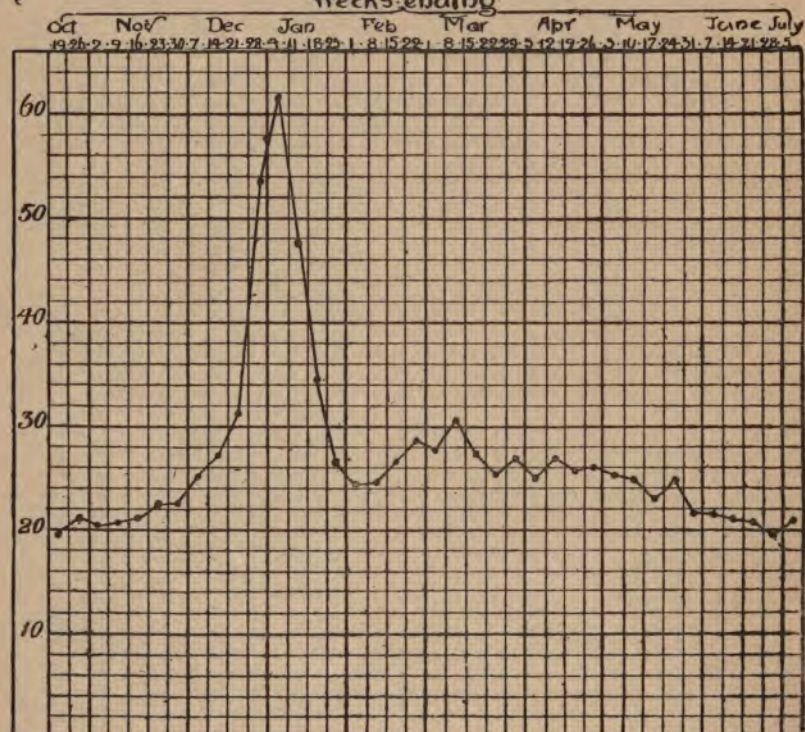


## CHARTS IV. AND V.

Death Rate per annum per 1000 living in  
Berlin during the Influenza epidemic in 1889-90 for

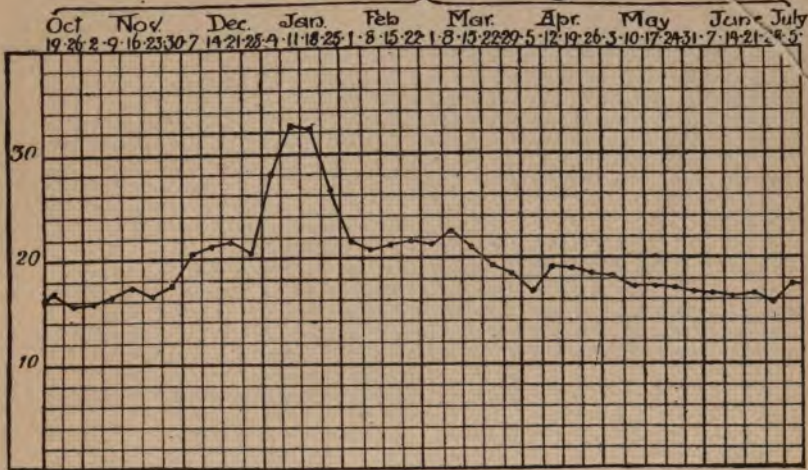


Death Rate per annum per 1000 living in  
Paris during the Influenza epidemic in 1889-90 for



## CHARTS VIII. AND IX.

Chart shewing the Death Rate per annum.  
per 1000 living in London during the  
Influenza epidemic in 1889-90 for  
Weeks ending



Death Rate per annum per 1000 living in.  
New York during the epidemic in 1889-90 for  
Weeks ending





## APPENDIX.

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### COUNSEL'S OPINION ON THE POWERS OF SANITARY AUTHORITIES AS TO INFLUENZA.

The following questions were submitted to Sir Frederick Pollock for his opinion:—

1. What powers, if any, have Sanitary Authorities over patients suffering from influenza—

(1) at common law?

(2) under the Public Health Act of 1875?

2. Are these powers discretionary or obligatory?

3. What power, if any, has the Local Government Board over Sanitary Authorities to make them carry out the provisions of the law?

4. Does either of these Acts—

(a.) Infectious Diseases Prevention Act, 1890;

(b.) Infectious Diseases (Notification) Act, 1889;

(c.) Public Health (London) Act, 1891;

prevent a Sanitary Authority from taking action at common law?





## OPINION.

1. (a.)—There is no doubt that at common law it is an indictable misdemeanour wilfully to expose in a public highway a person suffering from an infectious disorder. The only express modern authorities (*R. v. Vantandillo*, 4 M. & S. 73, *R. v. Burnett*, *ib.* 272, both in 1815) are on indictments against persons who carried about children suffering from small-pox. It would seem that the same principle would apply to any public place, and to a person wilfully exposing himself as well as any other person in his charge, and to any grave contagious disease. Evidently it would not apply to an ailment which, though strictly a “contagious disorder,” is not usually attended with grave consequences even if not specially treated, such as a common cold. The ground of the offence is “endangering the health and lives of the rest of the subjects” (*Le Blanc J.* in *R. v. Vantandillo*).

(b.) Exposure of persons “suffering from any dangerous infectious disorder” is punishable under s. 126 of the Public Health Act, 1875. The Act does not define “dangerous.”

The question is whether influenza comes within either the common law rule or the statutory description.

On the whole, I think it must be within both or neither. What Mr. Justice Le Blanc called “endangering the health and lives of the rest of the subjects” in 1815 seems to be as nearly as possible what the Legislature meant to express by the one word “dangerous” in 1875. If this be so, it is not necessary to consider

whether the statutory provision takes away the remedy by indictment at common law, for it is manifestly better to proceed under the statute. The decisions are still material as showing that the Public Health Acts have not so much created a new offence as provided a more certain and convenient remedy.

Whether the infection of influenza does endanger "the health and lives of the rest of the subjects" is, I conceive, a question that would have to be determined by the Court with such light as is afforded by the state of medical knowledge and by the language of other modern statutes, as well as any specific facts found in the case before it. The omission of influenza from the specific list of infectious diseases dealt with in the closely corresponding provisions of the Public Health (London) Act, 1891 (s. 55, sub-sec. 8, and s. 68) would, in my opinion, be a rather formidable argument against holding it to be a "dangerous infectious disorder" under the Act of 1875. The Legislature must be taken to have been aware in 1891 of the influenza epidemic of 1889-90, and to have thought it sufficient to leave the Sanitary Authority to apply the provisions of the Act to influenza, if thought necessary, under the powers of s. 56. Influenza is not specified in the Infectious Diseases (Notification) Act, 1889, but this is, by reason of the date, much less material.

I think the question a very doubtful one, and can only say that a Local Authority who acted on the opinion that influenza is a "dangerous infectious disorder" within the Public Health Act would have to be prepared for opposition. A mere announcement of intention to act on it would, however, not expose the Local Authority to hostile proceedings, and might meanwhile do good.



My own opinion inclines to the affirmative, but I do not think it possible to say with any confidence what the decision of the Court would be.

2. If the power to deal with influenza in this way does exist, I think it is neither more nor less discretionary than all (not specially qualified) powers of Local Authorities to enforce penal statutes.

3. The Local Government Board has power to compel the performance of duties under the Public Health Act, 1875, by defaulting Local Authorities (s. 299, *cf.* s. 101 of the London Act of 1891). But this power would be exercised only in a clear case.

4. This has been answered under No. 1.

Under ss. 130, 134 of the Public Health Act, 1875, which also apply to London (s. 113 of the London Act of 1891, 54 & 55 Vict. c. 76, and sched. 1), the Local Government Board has large and primary powers of making regulations of its own motion to prevent the spread of epidemic, endemic, or infectious disease. The epithet "formidable" is used in s. 134, but I think the Board would be the judge of what was formidable, within any reasonable limits.

FREDERICK POLLOCK.

13, Old Square,  
Lincoln's Inn,  
January 15th, 1892.





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